

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

KERRY MAX COOK,

Plaintiff,

v.

CITY OF TYLER, TEXAS, SMITH COUNTY, TEXAS, EDDIE CLARK, ERIC LIPTAK, DOUGLAS COLLARD, ROBERT BOND, GERALD HAYDEN, NELSON DOWNING, FRED MAYO, KENNETH FINDLEY, RONALD SCOTT, RONNIE MALLOCH, MARVIN T. MCLEROY, STUART DOWELL, ROBERT WICKHAM, JAKE MASSEY, J.B. SMITH, GENE CARLSON, JIMMY TOLER, LARRY SMITH, UNKNOWN TYLER POLICE OFFICERS, UNKNOWN SMITH COUNTY SHERIFF'S DEPUTIES,

Defendants.

**ORDER**

Pursuant to the parties' agreed Notice of Stipulation of Dismissal as to Defendants Larry Smith and Jimmy Toler, in their Official Capacities (Docket No. 57), Defendant Larry Smith and Defendant Jimmy Toler are hereby **DISMISSED WITHOUT PREJUDICE** from this action, with each party to bear its own attorneys' fees and costs.

Any relief not previously granted is hereby denied.

SIGNED this 9th day of November, 2017.

*Robert W. Schroeder III*  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE